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5 UNITED STATES DISTRICT COURT
6 DISTRICT OF NEVADA
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9 TRAVERS A. GREENE,

Case No. 2:07-cv-00304-MMD-DJA

10 Petitioner,

ORDER

11 v.

12 WILLIAM GITTERE, *et al.*,

13 Respondents.
14

15 This capital habeas corpus action was stayed on February 6, 2009, pending
16 exhaustion of claims in state court by Petitioner Travers A. Greene. (ECF No. 77.) On
17 March 22, 2017, upon a motion by Petitioner, the stay was lifted temporarily to allow
18 Petitioner to add a claim to his petition. (ECF No. 102.) On November 8, 2019, Petitioner
19 filed a motion to lift the stay ("Motion") claiming that his state-court proceedings have
20 concluded. (ECF No. 110.) On November 22, 2019, Respondents filed a notice stating
21 that they do not oppose the Motion. (ECF No. 112.) The Court will grant the Motion and
22 will set a schedule for further proceedings.

23 The Court will also direct the Clerk of the Court to update the docket with respect
24 to the identities of the Respondent Warden and Respondent State Attorney General.

25 It is therefore ordered that Petitioner's Motion to Vacate Stay and Reopen Capital
26 Habeas Proceedings (ECF No. 110) is granted. The stay of this action is lifted.

27 It is further ordered that the following schedule will govern the further proceedings
28 in this action:

1 1. Amended Petition. Petitioner will have 60 days from the date of this order
2 to file a second amended petition for writ of habeas corpus. The second amended petition
3 must specifically state whether each ground for relief has been exhausted in state court;
4 for each claim that has been exhausted in state court, the second amended petition must
5 state how, when, and where that occurred.

6 2. Response to Petition. Respondents will have 60 days following the filing of
7 the second amended petition to file an answer or other response to the second amended
8 petition.

9 3. Reply and Response to Reply. Petitioner will have 45 days following the
10 filing of an answer to file a reply. Respondents will thereafter have 30 days following the
11 filing of a reply to file a response to the reply.

12 4. Briefing of Motion to Dismiss. If Respondents file a motion to dismiss,
13 Petitioner will have 60 days following the filing of the motion to file a response to the
14 motion. Respondents will thereafter have 30 days following the filing of the response to
15 file a reply.

16 5. Discovery. If Petitioner wishes to move for leave to conduct discovery,
17 Petitioner must file such motion concurrently with but separate from the response to
18 Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for
19 leave to conduct discovery filed by Petitioner before that time may be considered
20 premature, and may be denied, without prejudice, on that basis. Respondents must file a
21 response to any such motion concurrently with, but separate from, their reply in support
22 of their motion to dismiss or their response to Petitioner's reply. Thereafter, Petitioner will
23 have 20 days to file a reply in support of the motion for leave to conduct discovery.

24 6. Evidentiary Hearing. If Petitioner wishes to request an evidentiary hearing,
25 Petitioner must file a motion for an evidentiary hearing concurrently with, but separate
26 from, the response to Respondents' motion to dismiss or the reply to Respondents'
27 answer. Any motion for an evidentiary hearing filed by Petitioner before that time may be
28 considered premature, and may be denied, without prejudice, on that basis. The motion

1 for an evidentiary hearing must specifically address why an evidentiary hearing is required
2 and must meet the requirements of 28 U.S.C. § 2254(e). The motion must state whether
3 an evidentiary hearing was held in state court, and, if so, state where the transcript is
4 located in the record. If Petitioner files a motion for an evidentiary hearing, Respondents
5 must file a response to that motion concurrently with, but separate from, their reply in
6 support of their motion to dismiss or their response to Petitioner's reply. Thereafter,
7 Petitioner will have 20 days to file a reply in support of the motion for an evidentiary
8 hearing.

9 It is further ordered that, pursuant to Federal Rule of Civil Procedure 25(d), William
10 Gittere is substituted for Timothy Filson as the Respondent Warden, and Aaron Ford is
11 substituted for Adam Paul Laxalt as the Respondent State Attorney General. The Clerk
12 of the Court is directed to update the docket for this case to reflect these changes.

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14 DATED THIS 6th day of December 2019.

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18 MIRANDA M. DU
19 CHIEF UNITED STATES DISTRICT JUDGE
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